

## **MINUTES**

### **MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON JUDICIARY**

**Call to Order:** By **CHAIRMAN LORENTS GROSFIELD**, on February 7, 2001 at 9:05 A.M., in Room 303 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Sen. Lorents Grosfield, Chairman (R)  
Sen. Duane Grimes, Vice Chairman (R)  
Sen. Al Bishop (R)  
Sen. Steve Doherty (D)  
Sen. Mike Halligan (D)  
Sen. Ric Holden (R)  
Sen. Walter McNutt (R)  
Sen. Jerry O'Neil (R)  
Sen. Gerald Pease (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Valencia Lane, Legislative Branch  
Cecile Tropila, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Executive Action: HB 223, HB 191  
Discussion: HB 184, HB 195

#### **EXECUTIVE ACTION ON HB 223**

**Motion:** SEN. DUANE GRIMES moved HB 223 BE AMENDED. Amendments were handed out **EXHIBIT(jus31a01)**.

##### **Discussion:**

**SEN. DUANE GRIMES** said the first amendment permits having to send addresses to two or three places.

**SEN. MIKE HALLIGAN** said they would not be allowed to go in and take the child in an emergency situation.

**Valencia Lane, Legislative Staffer**, stated amendments one and three are the same amendments in two different places. She explained the amendments and language changes.

**Chuck Hunter, Department of Public Health**, said this section with the amendments allowed a judge to order certain types of reliefs, as it appears in the amendment. He felt the language of "emergency protection" should be taken out, the emergency protection is being done currently when a child is in immediate need to be released from the parents. **SEN. HALLIGAN** felt Subsection (A) should be taken out.

**Valencia Lane** felt confused because she thought after "immediate protection" they would take out "emergency protection services".

**SEN. GRIMES** asked if one of the intents of this bill was to effect when a notice is to be given in an emergency. He thought it would be difficult to go in and release a child in an emergency situation without notice.

**Chuck Hunter** said under the current emergency statute they can go in without a judge's order if there is risk to the child. He added there was immediate protection of the child and as the form of this amendment is now it would add confusion with the clarity of emergency protection.

**SEN. GRIMES** asked if this bill was intended to affect the emergency protection services. **Chuck Hunter** said he didn't believe that was the intent of the bill, but to work with the due process issue of the statutes when there was petitions and when there was action and how to notice the parties involved.

**Substitute Motion:** **SEN. HALLIGAN** motioned to add provisions and strike language page one, line 22 and page three line 11.

**Discussion:** None

**Vote:** Substitute Motion carried unanimously.

**Motion:** **SEN. HALLIGAN** moved HB 223 DO CONCUR.

**Discussion:**

**SEN. HALLIGAN** said the idea of publication was still required under a personal service and once the petition was served a new notice would be sent out. He said there is added protections for this bill.

**Vote:** Motion carried unanimously.

**Discussion on HB 184 from floor debate:**

**SEN. GRIMES** said there needed to be trust with the department and the department should explain some of the concerns from this bill.

**SEN. JERRY O'NEIL** wondered if the fingerprinting was being put into the system when people were not being convicted.

**SEN. WALT MCNUTT** wanted to know if someone was not convicted if it would stay in the system or be removed. **Brenda Nordlund, Motor Vehicle Division**, said once the fingerprinting was done it stays in the central repository, but the birth and death of the offense goes through the system and stays until it is dismissed because it will be tracked on the criminal record system.

**SEN. HALLIGAN** asked if a person was driving under the influence, where do the fingerprints go after they are taken. **Brenda Nordlund** said under the current law those fingerprints go nowhere, they stay at the local level. She explained fingerprints could not be submitted to the central repository for identification purposes under the current Criminal Justice Information Act.

**SEN. HALLIGAN** asked if it was considered a traffic offense. **Brenda Nordlund** answered yes.

**SEN. HALLIGAN** asked if this needs to be more than a traffic offense. **Brenda Nordlund** said there was strong public policy to support this.

**SEN. HALLIGAN** asked if this bill would allow the fingerprints to be sent to Helena. **Brenda Nordlund** said if this bill was passed, that would be correct.

**SEN. HALLIGAN** asked how would the court know to transmit if there was a dismissal or an acquittal. **Brenda Nordlund** said during the regular course of business courts report both to the Criminal History Record System and dispositions to the Motor Vehicle Division. She added a person could petition to have something removed from their record.

**SEN. HALLIGAN** asked if an employer requested records, would the Motor Vehicle Division have to notify the person asking for this request and he asked if there was an expungement if a person petitions to have them expunged. **Brenda Nordlund** said no, that

is procedure for the Motor Vehicle Division. **Wilbur Raymond, Project Manager for Criminal Justice Information Integration**, said anytime a person requests a copy of the criminal history record there is an opportunity to challenge any item that may appear on the record.

**SEN. HALLIGAN** asked if the points go off for insurance purposes. **Wilbur Raymond** said yes, that was correct, but the record will still exist.

**SEN. O'NEIL** asked if the sentence was deferred and possibly expunged would the fingerprints come out of the central repository if this bill is passed. **Wilbur Raymond** said if it was expunged, the records would come out and the fingerprints can only come out if the judge orders them to be removed. **Brenda Nordlund** pointed to page six of the bill, which defines fingerprinting. She explained the charges under current law.

**SEN. GRIMES** asked if this is current law at the state level and the local level. **Brenda Nordlund** said at the local level it is a decision by the local officials because they can't submit anything do to these offenses.

**SEN. GRIMES** asked if this bill would allow for someone to expunge their record whereas right now it is a patchwork of policies at the local level that may or may not be allowed to be done. **Pam Bucy, Assistant Attorney General**, said the local law enforcement agencies are allowed to take fingerprinting under federal and state law, but they are not used by local law enforcement if there isn't a central repository to check those fingerprints. She added it depends on determining the amount of D.U.I.s and only with a fingerprinting check can they look into the identity.

*{Tape 1; Side B}*

#### EXECUTIVE ACTION ON HB 191

**Motion:** **SEN. HOLDEN** moved **HB 191 BE CONCURRED IN.**

#### Discussion:

**SEN. GRIMES** said this would allow the department of Motor Vehicles to not receive tracking of M.I.P.s that don't pertain to driver privileges.

**Brenda Nordlund** explained another bill pertaining to Motor Vehicles and M.I.P convictions, which treats these convictions as

confidential criminal justice information and seals the record once the offender turns the age of 21.

**SEN. GRIMES** stated these offenders, who are under age, understand the convictions of them and not being able to have driving privileges.

**Vote:** Motion carried with **CHAIRMAN GROSFIELD** and **SEN. GRIMES** voting no.

**Discussion on HB 195 from Floor Debate:**

**SEN. GRIMES** mentioned **SEN. WATERMAN** brought up the fiscal impact and how youth could be charged as an adult. **Pam Bucy, Assistant Attorney General**, said this would affect between 40 and 50 child and in Helena it may be fewer in a year. She didn't think there should be a fiscal impact dealing with this because these kids are likely to not be incarcerated.

**SEN. HALLIGAN** said if they are into criminal possession with felony amounts than it becomes more heavy with fiscal impacts due to second offenses. **SEN. DOHERTY** said it is valid to have a fiscal note and some information from corrections.

**SEN. GRIMES** said they will look into a fiscal note and check with **SEN. WATERMAN** for further information regarding this bill.

**ADJOURNMENT**

Adjournment: 10:00 A.M.

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SEN. LORENTS GROSFIELD, Chairman

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CECILE TROPILA, Secretary

LG/CT

**EXHIBIT** (jus31aad)